

The 27th May, 1985

No. 9/5/84-Lab/4277.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of Haryana Roadways, Jind Depot, Jind (Haryana).

IN THE COURT OF SHRI V. P. CHAUDHARY,
PRESIDING OFFICER,
LABOUR COURT, AMBALA
(HARYANA)

Reference No. 160 of 1984

(Old No. 53 of 1981)

SHRI SADHU RAM WORKMAN AND THE
MANAGEMENT OF HARYANA ROAD-
WAYS, JIND DEPOT, JIND
(HARYANA)

Present:

Shri Maghar Singh, for the workman.

Shri A. R. Goyal, for the respondent.

AWARD

The Hon'ble Governor of Haryana in exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute titled *Sadhu Ram v. Haryana Roadways, Jind* originally to Labour Court, Rohtak, on creation of Court at Ambala this reference was received by transfer. The terms of reference are as under :—

"Whether the termination of services of Shri Sadhu Ram workman was justified and in order? If not, to what relief is he entitled to?"

Shri Sadhu Ram workman through his authorised representative Shri Tejinder Singh alleged that he has served respondent management for 6 months as a Conductor. His services were terminated on 24th March, 1977, without any notice, Charge-sheet enquiry or retrenchment compensation which is illegal and unjust. He has prayed for declaration this termination order as null and void and also has prayed for his re-instatement with continuity of service with full back wages.

Respondent management contested the case contending that services of workman had been discontinued as per terms and conditions as per his appointment order. The reference is uncalled for reserve rejection. It was further contended that there were serious allegations of 9 cases of fraud within a short duration of six months service in spite of warning and applicant did not improve himself which resulted termination of his services. Since workman had not

completed the service of 240 days so section 25(F) of Industrial Disputes Act, 1947 is not applicable.

On the pleadings of the parties the following issues have been framed :—

ISSUES:

Whether the termination of services of Shri Sadhu Ram workman was justified and in order? If not, to what relief is he entitled?

I have heard parties and their authorised representatives and minutely perused the evidence available on the records and of the view that the termination of workman is just and according to law. This findings of mine shall be supported by my underneath discussions :—

Respondent management examined MW-1 Shri Raj Singh Gill, Clerk, Haryana Roadways, Jind, who deposed that Shri Sadhu Ram workman was appointed,—vide order Exhibit MW-1/1. Nine reports of embezzlement received against him by the different Inspecting Squads which are Exhibit MW-1/2 to Exhibit MW-1/10. Workman was employed on ad hoc basis, there was a clause in his appointment letter that his services could be terminated at any movement without assigning any reason. Since the work and conduct of the workman was most unsatisfactory. He committed fraud nine times. He was appointed on 5th October, 1976, his services were terminated on 24th March, 1977 this shows that he had not completed service of more than 240 days. He went in appeal against the order of the General Manager, Haryana Roadways, Jind, to State Transport Commissioner, Haryana, Chandigarh. His appeal was also rejected. In cross examination he stated that he has made statement on the basis of records and has no personal knowledge.

Workman examined WW-1 Shri Siri Chand who deposed that in February, 1977 he was travelling in Bus from Sonapat to Gohana. Many students were travelling without tickets near village Banwas, bus was checked. Many students dropped from the bus and ran away in few of them caught by the checking staff. They stated in correctly that they had paid price of tickets to conductor. In fact no such payment was made by them. Thereafter Shri Sadhu Ram appeared as WW-2. He also stated that his services were wrongly discontinued and certain juniors are still in service.

The above evidence clearly shows that the workman was appointed on ad hoc basis he was liable to be discontinued at any movement without showing any cause or reason.

Secondly the workman joined the respondent service on 5th October, 1976 and was terminated on 24th March, 1977 in other words he did not complete 240 days. Documents Exhibit MW-1/2 to Exhibit MW-1/2 to 10 clearly read that during a short spell of service of workman Sadhu Ram he was checked by 9 different Inspectors and was found having embezzled Government money which resulted in the termination of his services. Since the workman had not completed service of 240 days, so one month notice, no pay for notice period or no retrenchment compensation was required to be paid to workman.

In view of my above discussions the management has been able to discharge the burden of onus placed upon it. The order of termination, dated 24th March, 1977 is justified and accordingly to law.

I pass my award regarding the dispute in hand accordingly.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

The 25th April, 1985.

Endorsement No. 1222, dated Ambala City, the 11th May, 1985.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

No. 9/5/84-Lab/4267.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workmen and the management of Haryana Roadways, Jind.

IN THE COURT OF SHRI V. P. CHAUDHARY,

PRESIDING OFFICER,
LABOUR COURT, AMBALA,
AT AMBALA CITY (HARYANA)

Reference No. 156 of 1984
(Old No. 109 of 1981)

SHRI DHARAM SINGH, WORKMAN AND
THE MANAGEMENT OF HARYANA
ROADWAYS, JIND

Present:

Shri Dharam Singh, workman, alongwith his
authorised representative.

Shri A. R. Goyal for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 originally referred this dispute to Labour Court, Rohtak. On creation of court at Ambala, under section 7 of the aforesaid Act, this dispute was received by transfer. The reference was in the following terms :—

Whether the termination of services/dismissal of Shri Dharam Singh, workman was justified and in order? If not, to what relief is he entitled to?

Workman Dharam Singh alleged that he was employed as a Conductor No. 79 in the service of respondent management for the last 6 years. His services were terminated without any fair and proper enquiry. The Inquiry Officer acted himself as a Judge as well as prosecutor in other words none represented the management before the Inquiry Officer. At the time of termination he used to get Rs. 370 per mensem. It was alleged that he was not explained the procedure of enquiry. His service record was clear. The order of termination is illegal and un-justified, *mala fide*, arbitrary and against the canons of natural justice. He has prayed for re-instatement with continuity of service with full back wages.

Management appeared contested the claim of workman alleging that the removal of workman from his service was in compliance of prescribed procedure under the rules after conducting fair and proper domestic enquiry. The Inquiry Officer did not exceed beyond his powers. He relied upon the evidence of witnesses. Given full opportunity to workman of leading defence evidence and after complying proper procedure he submitted his findings against the workman. On the basis of the same show cause notice was issued to workman by the General Manager, Haryana Roadways, Jind, after affording personal hearing to workman. His services were rightly terminated.

On the pleadings of the parties the following issues were struck by my learned predecessor for the just decision on this case:—

ISSUE NO. 1:

Whether the enquiry conducted by the management is fair and proper? If so to what effect?

ISSUE NO. 2:

Whether the termination of services of Shri Dharam Singh was justified and in order? If not, to what relief is he entitled to?

I have heard both the parties and their authorised representatives and have gone through the evidence placed on the file. My issue-wise findings are as under :—

ISSUE UOS. 1 & 2:

Issue Nos. 1 and 2 both are taken together for discussion and for findings although issue No. 1 was not pressed by the management.

In the case in hand the allegations which resulted in the termination of services of Shri Dharam Singh, Conductor are that on 22nd July, 1975, Shri Dharam Singh, workman, was Conductor on Bus No. 1066 which was plying on Chandigarh-Narnaul route. At Kitlana Bus stand it was checked by Shri Shadi Lal, Inspector found that there were 3 passengers in the bus who were without tickets. Conductor Dharam Singh had accepted Rs. 4.80 price from the passengers and did not issue tickets to them. Matter was reported to the General Manager, Haryana Roadways, Jind, who appointed Shri O. P. Dewan as Inquiry Officer. Shri O. P. Dewan was transferred, during the pendency of inquiry thereafter this inquiry was assigned to Shri Narain Dass, Station Supervisor, who appeared in the witness-box as MW-1. Report of the Inspector is Exhibit MW-1/2. Charge-sheet is Exhibit MW-1/3. Reply of charge-sheet of workman is Exhibit MW-1/4. Un-punched 6 tickets are Exhibit MW-1/5. Notice for presence issued to both parties for 21st June, 1976 is Exhibit MW-1/6. Both the parties appeared. Statement of Shri Shadi Lal, Inspector was recorded in the presence of workman. Later cross-examined the Inspector. Statement of workman was recorded. He was given an opportunity to lead defence evidence which was not availed of by the workman and closed his defence evidence. Thereafter findings report is Exhibit MW-1/7 was submitted by the Inquiry Officer to General Manager. Thereafter the General Manager, Haryana Roadways, Jind, issued show-cause notice, Exhibit MW-1/8. Reply of the same is Exhibit MW-1/9 was submitted by the workman. Thereafter General Manager afforded personal hearing to workman,—vide notice, Exhibit MW-1/10. After considering the whole matter, General Manager, Haryana Roadways, Jind, passed termination order, Exhibit MW-1/11.

In cross-examination MW-1 stated that he personally recorded statement of Shri Shadi Lal Inspector in the presence of workman. Traffic Clerk was present with record of workman. He admitted that list of witnesses was not supplied

to workman but full opportunity of leading defence evidence was afforded to workman.

Shri Dharam Singh, Conductor, to controvert the evidence of management examined himself by saying that nor represented the management at the time of enquiry. Copy of report of Inspector, list of witnesses and copies of statement of witnesses were not furnished to him. The bus was checked at first stage, it was overloaded. He was issuing tickets to those passengers who were to get down at the distance of 4 or 5 kms. The Inspector did not issue tickets to the checked passengers but he reported the matter without any base. He was not afforded next date for leading defence evidence. In cross-examination he admitted that bus was bond for Chandigarh to Narnaul. His bus was checked by Shri Shadi Lal at Kitlana Bus Stand. He denied the suggestion that he had received price of 3 tickets from 3 passengers and did not issue tickets to them. He also controverted the suggestion that he was asked by the Inquiry Officer to take date for leading defence witnesses but he himself refused to take the time. He admitted that he filed an appeal to State Transport Commissioner, Haryana, which was rejected.

In view of the above evidence and after hearing authorised representatives of parties I reached at the conclusion that the allegations against Shri Dharam Singh Conductor are of embezzlement of a sum of Rs. 4.80. He was caught red-handed at Kitlana Bus Stand by Shri Shadi Lal, Inspector, and having received price of 3 tickets from 3 passengers without issuing tickets to them. The Inquiry Officer gave proper opportunity of cross-examining the witnesses and leading in defence which the workman availed.

The only objection that list of witnesses was not supplied to workman on the ground that the prosecution only examined Shri Shadi Lal Inspector who detected the fraud which was in the knowledge of the workman. No other witness was examined which would might have been to the surprise of workman.

There are no mandatory provisions that the enquiry cannot be finished in a single day nor such process was referred.

The allegations of workman that termination order is arbitrary and discreminatory. There is nothing on records to prove the above allegations.

The workman has also alleged that his service records is clear is also wrong because the Inquiry file which has been exhibited in the

case in hand also disproved the claim of the workman because there is one another report against him, dated 18th March, 1975, submitted by Shri Jagan Nath which reads that Shri Dharam Singh, Conductor No. 79 was conducting on Bus No. 1024 and was taking the bus from Jind to Hissar. Workman charged 0.45 Paise less from 7 passengers and thus made an embezzlement of Rs. 3.15. In addition to that there is another report against Shri Dharam Singh, workman, dated 18th January, 1975, when he was taking Bus No. 1033 he was checked by Shri Raj Singh at Pharal Bus Stand and found workman dropping 15 passengers without tickets and charged from them Rs. 0.40 Paise each and thus embezzled Rs. 6 in hurry. Workman Dharam Singh torn 15 tickets of the value of Re. 0.25 Paise each and threw on the ground which were collected and matter was reported by Shri Raj Singh to General Manager, Haryana Roadways, Jind. On 13th January, 1975, bus taken by Shri Dharam Singh, Conductor No. 79, Bus No. 1056 was checked by Shri Hans Raj Inspector near Dera Bassi. It was coming from Chandigarh to Dera Bassi. Inspite of signal the bus was stopped by Driver at the distance of 50 paces ahead from the place where Inspector was ahead and dropped 16 passengers from whom Shri Dharam Singh Conductor had charged Rs. 16 (Re. 1 each from each passenger) and had not issued any ticket to them when the Inspector went to check the tickets from the passengers Shri Dharam Singh and Driver Mahavir Singh both drove away the bus.

The above history gives the true picture of the service records of Conductor Dharam Singh No. 79 but without being influenced and feeling prejudiced from this history of the workman I am keeping confined myself only up to the inquiry; on the basis of the same services of Shri Dharam Singh, Conductor No. 79 were terminated.

I have discussed at length above that workman was caught red-handed taking 3 passengers without tickets after having charged price of their tickets Rs. 4.5 and proper enquiry was conducted. Workman was given full opportunity to cross-examine the witness and to lead defence. I think that the domestic enquiry conducted by the departmental officer is fair and proper. The termination order is justified and does not require any interference by this Court. Both the issues are decided in favour of management and against the workman.

I pass my award accordingly regarding the controversy in hand.
The 25th April, 1985.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 1209, dated Ambala City, the 11th May, 1985.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

KULWANT SINGH,
Secretary to Government, Haryana,
Labour and Employment Department.

श्रम विभाग

दिनांक 7 जून, 1985

सं.ओ.वि./अम्बाला/51-85/24675.--चूँकि हरियाणा के राज्यपाल की राय है कि मै० कुलदीप जैसवाल, शंकर कार्ड बोर्ड, इण्डस्ट्रीयल ऐरिया, प्लॉट नं० 71, पंचकुला (अम्बाला) के श्रमिक श्री अच्छे लाल तथा उसके प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है;

और चूँकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं।

इस लिये अब औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उप-धारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये, हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं. 3(44)84-3-श्रम, दिनांक 18 अप्रैल, 1984 द्वारा उक्त अधिनियम की धारा 7 के अधीन गठित श्रम न्यायालय, अम्बाला को विवादग्रस्त या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय के लिये निर्दिष्ट करते हैं, जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या विवाद से सुसंगत अथवा सम्बन्धित मामला है :--

क्या श्री अच्छे लाल की सेवाओं का समापन न्यायोचित तथा ठीक है, यदि नहीं तो वह किस राहत का हकदार है?